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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,646	02/19/2002	Elena A. Fedorovskaya	83957RLO	7936

7590 04/27/2007 Thomas H. Close Patent Legal Staff Eastman Kodak Company 343 State Street Rochester, NY 14650-2201	**EXAMINER** SINGH, SATWANT K

ART UNIT	PAPER NUMBER
2625	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE **3** MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 February 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>23 April 2002</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   This office action is in response to the amendment filed on 05 February 2007.

Response to Arguments

2.   Applicant's arguments with respect to claims 1, 9, and 11 have been considered

but are moot in view of the new ground(s) of rejection.

Drawings

3.   The drawings filed on 23 April 2002 are accepted by the Examiner.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.   Claims 1-6, 9-14, 16, and 18-20 are rejected under 35 U.S.C. 102(e) as being

anticipated by Colmenarez et al. (US 6,931,147).

6.   Regarding Claim 1, Colmenarez et al disclose a method for collecting and

associating affective information for a plurality of images in an imaging system,

comprising the steps of: a) displaying a plurality of digital images for viewing by a

particular user (Fig. 1A, step 145) (col. 2, lines 25-36); b) automatically collecting

affective information for the plurality of digital images as the particular user views the

images (Fig. 1B, step 155) (col. 2, lines 42-48); c) storing in a database the collected

affective information for each of the plurality of digital images and associating the

collected affective information with the particular user (Fig. 1B, step 165) (col. 2, lines

49-51); and d) using the stored collected affective information associated with the

particular user to facilitate retrieval of particular digital images from the plurality of digital

images viewed in step a (Fig. 1A, step 125) (col. 2, lines 12-25).

7.   Regarding Claim 2, Colmenarez et al disclose a method further including the step

of: e) the particular user providing a personal identifier (website requests an identifier

and password) (col. 2, lines 1-11).

8.   Regarding Claim 3, Colmenarez et al disclose a method wherein the affective

information and a user identifier are stored with each of the digital images in a plurality

of digital image files (identifying information and correlation module) (col. 5, lines 1-15).

9.   Regarding Claim 4, Colmenarez et al disclose a method wherein each of the

digital image files includes affective information and user identifiers for a plurality of

users (categories can be personalized) (col. 5, lines 27-38).

10.   Regarding Claim 5, Colmenarez et al disclose a method wherein the step of

automatically collecting affective information includes monitoring the physiology of the

particular user (mood of a viewer) (col. 3, lines 18-35).

11.   Regarding Claim 6, Colmenarez et al disclose a method wherein the step of

automatically collecting affective information uses a video camera (camera 206) (col. 2,

lines 54-65).

12.   Regarding Claim 9, Colmenarez et al disclose a method for providing affective

information for images captured by a particular user in an imaging system, comprising

the steps of: a) sequentially displaying a plurality of digital images captured by the

particular user for viewing by a particular user (Fig. 1A, step 145) (col. 2, lines 25-36); b)

automatically collecting affective information related to the particular user's reaction to

each of the plurality of digital images (Fig. 1B, step 155) (col. 2, lines 42-48); c) storing

the collected affective information for each of the plurality of digital images and

associating the collected affective information with the particular user (Fig. 1B, step 165)

(col. 2, lines 49-51), and d) using the stored collected affective information associated

with the particular user to facilitate retrieval of particular digital images from the plurality

of digital images viewed in step a (Fig. 1A, step 125) (col. 2, lines 12-25).

13.   Regarding Claim 10, Colmenarez et al disclose a method wherein the collected

affective information for each of the plurality of digital images is stored along with the

digital image in separate digital image files, and the digital image files include a user

identifier which identifies the particular user (personalized categories) (col. 5, lines 27-

38).

14.   Regarding Claim 11, Colmenarez et al disclose a system for providing affective

information for images captured by a particular user in an imaging system, comprising:

a) a digital memory which stores a set of the digital images captured by the particular

user (database 225) (col. 4, lines 5-13); b) means for identifying the particular user

(website requests an identifier and password) (col. 2, lines 1-11); c) a display which

sequentially displays the set of stored digital images for viewing by the particular user

(photos displayed as a virtual mood based photo album) (col. 2, lines 25-36); d) a

sensor for automatically measuring the particular user's reaction to the image as the

particular user views the image (second image of the facial expression is captured by

the camera) (col. 2, lines 42-48); e) a processor for processing the signal from the

sensor to provide affective information associated with each image in the set of digital

images (image of the facial expression of the viewer is provided to a pattern recognition

module of a processor) (col. 2, lines 2-11); f) a memory for storing the affective

information associated with each image in the set of digital images (set of photos

retrieved from a storage area, the photos corresponding to the type of mood detected)

(col. 2, lines 18-24); and g) using the stored collected affective information associated

with the user for causing the processor to retrieve particular digital images from the set

of digital images (set of photos retrieved from a storage area, the photos corresponding

to the type of mood detected) (col. 2, lines 18-24).

15.   Regarding Claim 12, Colmenarez et al disclose a system wherein the sensor is a

video camera (camera 206) (col. 2, lines 54-65).

16.   Regarding Claim 13, Colmenarez et al disclose a system wherein the processor

processes the signal from the video camera in order to determine the particular user's

facial expression (second image of the facial expression is captured by the camera)

(col. 2, lines 42-48).

17.   Regarding Claim 14, Colmenarez et al disclose a system wherein the sensor

measures the particular user's biometric response (monitoring of facial expressions)

(col. 2, lines 42-48).

18.   Regarding Claim 16, Colmenarez et al disclose a system wherein the system includes a pointing device, and the sensor is incorporated into the pointing device (keyboard, joystick or mouse) (col. 2, lines 25-36).

19.   Regarding Claim 18, Colmenarez et al disclose a system wherein the affective information is stored in the digital memory (database 225) (col. 4, lines 5-13).

20.   Regarding Claim 19, Colmenarez et al disclose a system wherein the affective information is stored with each digital image in a digital image file (photos characterized at least by mood) (col. 4, lines 5-13).

21.   Regarding Claim 20, Colmenarez et al disclose a system wherein the digital image file includes affective information and user identifiers for a plurality of users (personalized categories) (col. 5, lines 27-38).

Claim Rejections - 35 USC § 103

22.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

23.   Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colmenarez et al. in view of Philomin et al. (US 2003/0081834).

24.   Regarding Claim 7, Colmenarez et al fail to teach a method wherein the step of automatically collecting affective information includes determining the duration of time the particular user views each of the plurality of images.

25.   Philomin et al teach a method wherein the step of automatically collecting affective information includes determining the duration of time the particular user views each of the plurality of images (facial expression of viewer for a predetermined amount of time) (page 4, Claim 4).

26.   Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teaching of Colmenarez with the teaching of Philomin to detect the emotional state of the viewer based on how long the viewer views the images.

27.   Regarding Claim 8, Colmenarez et al fail to teach a method wherein the step of automatically collecting affective information for the plurality of digital images includes monitoring the gaze of the particular user.

28.   Philomin et al teach a method wherein the step of automatically collecting affective information for the plurality of digital images includes monitoring the gaze of the particular user (contour of the eye) (page 3, paragraph [0028]).

29.   Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teaching of Colmenarez with the teaching of Philomin to detect the emotional state of the viewer based the gaze of the viewer.

30.   Claims 5, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colmenarez et al. in view of Strubbe et al. (US 6,795,808).

31.   Regarding Claim 15, Colmenarez et al fail to teach a system wherein the sensor measures the particular user's galvanic skin response.

32.   Strubbe et al teach a system wherein the sensor measures the particular user's galvanic skin response (galvanic skin response sensor) (col. 21, lines 47-67, col. 22, lines 1-6).

33.   Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teaching of Colmenarez with the teaching of Strubbe to use a biometric sensor to monitor biological or physiological characteristics or responses of the viewer.

34.   Regarding Claim 17, Colmenarez et al fail to teach a system wherein the sensor measures the particular user's galvanic skin response.

35.   Strubbe et al teach a system wherein the sensor measures the particular user's galvanic skin response (galvanic skin response sensor) (col. 21, lines 47-67, col. 22, lines 1-6).

36.   Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teaching of Colmenarez with the teaching of Strubbe to use a biometric sensor to monitor biological or physiological characteristics or responses of the viewer.

Conclusion

37.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action.. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Satwant K. Singh whose telephone number is (571)

272-7468. The examiner can normally be reached on Monday thru Friday 8am -

4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David K. Moore can be reached on (571) 272-7437. The fax phone number

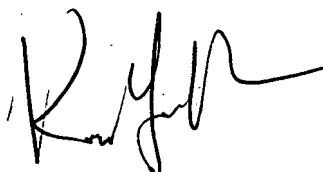for the organization where this application or proceeding is assigned is 571-273-8300.

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Satwant K. Singh
Examiner
Art Unit 2625

sks

KING Y. POON
PRIMARY EXAMINER